



LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2012-6 CRB CD 2004-2009 (Phase II)]

Distribution of 2004, 2005, 2006, 2007, 2008, and 2009 Cable Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Initiation of Phase II proceeding and request for Petitions to Participate

SUMMARY: The Copyright Royalty Judges (Judges) announce the commencement of a proceeding to determine the Phase II distribution of royalties deposited with the Register of Copyrights for the statutory license allowing distant retransmission of over-the-air television and radio broadcast signals by cable system operators. The funds to be distributed are those relating to broadcast years 2004, 2005, 2006, 2007, 2008, and 2009. The Judges also announce the date by which any party wishing to participate in this distribution proceeding must file its Petition to Participate and the accompanying \$150 filing fee, if applicable.

DATES: Petitions to Participate and the filing fee are due on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Participants must submit an original, five paper copies, and an electronic copy in Portable Document Format (PDF) on a CD of the Petition to Participate, along with the \$150 filing fee, to the Copyright Royalty Board by either mail or hand delivery. Participants MAY NOT submit Petitions to Participate and the \$150 filing fee by an overnight delivery service other than the U.S. Postal Service Express Mail. If participants choose to use U.S. Postal Service (including overnight delivery), they must address their submissions to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977. If participants choose hand delivery by a private party, they must

deliver the submissions to the Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue, S.E., Washington, DC 20559-6000. If participants choose delivery by a commercial courier, they must deliver the submissions to the Congressional Courier Acceptance Site, located at 2nd and D Street, N.E., Washington, DC. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue, S.E., Washington, DC 20559-6000.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, CRB Program Specialist, by telephone at (202) 707-7658, or e-mail at crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

Twice each calendar year, cable system operators must deposit royalty payments with the Copyright Office for the statutory license granting the privilege of retransmitting over-the-air television and radio broadcast signals. 17 U.S.C. 111. The royalties are then distributed to copyright owners whose works were retransmitted and who timely filed a claim for royalties.

The royalties at issue in this proceeding are being distributed in two phases. For broadcast years 2004 and 2005, the Judges conducted Phase I hearings, after which they determined the percentage allocation of the royalties among representatives of the major categories of copyrightable content (movies, sports programming, music, etc.). For broadcast years 2006 through 2009, the parties settled their controversies. The Judges authorized a final Phase I distribution for all six years at issue currently by order dated

February 17, 2012¹. The Phase I distribution order for broadcast years 2004 through 2009 provided for retention of \$20 million in cable royalty funds, divided equally among each of the six years, and \$13 million in satellite royalty funds,² divided equally among each of the six years, pending resolution of remaining controversies regarding proper distribution and allocation of those funds. The purpose of this Phase II proceeding is to allocate the royalties among the various copyright owners within each category.

Commencement of Phase II Proceeding

The Judges determine that a Phase II controversy exists as to the distribution of the retained cable royalty funds deposited for broadcast years 2004 through 2009, inclusive. On July 27, 2012, three Phase I participants, Joint Sports Claimants, Program Suppliers, and Devotional Claimants filed a Joint Motion to Initiate Phase II Proceedings (Joint Motion), representing that all other Phase I category royalty recipients had resolved their remaining controversies and seeking to consolidate the proceeding for years 2004-05 with proceedings for years 2006 through 2009.

Independent Producers Group (IPG) objected to the motion, citing unresolved distribution of royalties deposited for royalty years antedating 2004 and asserting that the earlier distributions should be completed before initiating a proceeding for the funds at issue in this proceeding. In the interim, between the Joint Motion and this notice, the Judges have resolved or scheduled for resolution all issues remaining in the earlier proceedings. IPG's objection to initiating this Phase II proceeding is not persuasive as it is no longer germane.

¹ See Order on Motions for Distribution in Docket Numbers 2007-3 CRB CD 2004-05; 2008-4 CRB CD 2006; 2009-6 CRB CD 2007; 2010-6 CRB CD 2008; 2011-7 CRB CD 2009; 2010-2 CRB SD 2004-07; 2010-7 CRB SD 2008; 2011-8 CRB SD 2009.

² This notice relates only to cable royalties; satellite royalties shall be the subject of a separate notice.

In light of the outstanding Phase II controversies with respect to cable royalties for 2004 to 2009, inclusive, the Judges hereby **GRANT** the Joint Motion, initiating a Phase II proceeding and consolidating all extant proceedings relating to cable royalties for the years 2004 through 2009, inclusive, for resolution under the docket number noted above.

Petitions To Participate

Any interested party must file a Petition to Participate (PTP) in accordance with 37 CFR 351.1(b)(2). PTPs submitted by interested parties whose claims do not exceed \$1,000 must contain a statement that the party will not seek a distribution of more than \$1,000. The Judges will accept PTPs for claims not exceeding \$1,000 without a filing fee. The Judges will reject the PTP of any party asserting a claim in excess of \$1,000 that is not accompanied by the filing fee of \$150. The filing fee must be paid by check or money order payable to the “Copyright Royalty Board.” If a check is returned for insufficient funds, the corresponding Petition to Participate will be dismissed.

To participate in this Phase II proceeding, a party, other than an individual, must be represented by an attorney.

The Judges will address scheduling and further procedural matters after Petitions to Participate are filed.

Dated: August 12, 2013

Suzanne M .Barnett
Chief Copyright Royalty Judge.

[BILLING CODE: 1410-72-P]

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